

**REMARKS**

Claims 2-11 stand pending after entry of the above amendments to the claims. Applicants hereby submits the above amendments to the specification and abstract, wherein the amendments have been made to correct typographical errors and to make proper reference to U.S. patents and applications as referenced in the present application.

**Claim Rejection, 35 U.S.C §112**

Claims 1-4 were rejected under 35 U.S.C. §112 as being indefinite, particularly claims 1-4 recited “the expandable elements” thereby making it unclear whether claim 1 requires one or multiple expandable elements.

Applicants hereby submit the above amendments to the claims, wherein claim 1 has been canceled through this amendment and the remaining pending claims 2-11 have been amended to recite that the device includes a plurality of expandable elements. Applicants believe that the above amendments places the claims in condition for allowance and respectfully requests reconsideration of the claim in view of the above amendments.

**Claim Rejection 35 U.S.C. §103**

Claims 1, 3, and 4 were rejected in view of U.S. Patent No. 5,674,231 to Green et al. Applicants believe that the claims as presented above are clearly allowable over Green et al. Particularly, Green et al. fails to disclose or suggest a method of closing an opening in tissue using a device that deploys a clip having tines and which translates into a planar configuration. Rather the

clip in Green et al., as depicted in Fig. 22, compresses the tissue between its legs 24 and engagement projections 25.

Applicants believe that claims 2-11 as presented above are allowable over Green et al. for the reasons presented above and as indicated on page 4 of the official action dated March 22, 2005. Therefore, Applicants respectfully requests reconsideration of the present application. It is believed that this application is now in condition for allowance.

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. **15-0665**.

Dated: May 10, 2005

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

By:



Kenneth S. Roberts

Reg. No. 38,283

4 Park Plaza, Suite 1600  
Irvine, CA 92614  
949/567-6700 Telephone  
949/567-6710 Facsimile